

REMARKS

Status of the claims

Claims 1-13 are currently pending in the present application. The Office Action is non-final. Claims 1-8 and 10-12 are withdrawn from consideration. Claims 9 and 13 remain pending in the present application. No amendments, cancellations or additions have been made to the claims by way of the present submission. Thus, a listing of the claims is not needed. Applicants submit this Supplemental Amendment to clarify Applicant's position regarding the scope of claim 9.

All comments and arguments presented in the Amendment of August 9, 2007 are reiterated in response to all outstanding rejections as if fully presented hereinbelow and are hereby incorporated by reference into the present reply, with the exception of the additional comments offered below. Reconsideration is respectfully requested.

In the Office Action, the Examiner asserted that claims 10-12 were withdrawn from consideration as being directed to a non-elected invention since claims 10-12 are directed to an invention that is independent or distinct from the invention originally claimed. Additionally, the Examiner asserted that since Applicants received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

The Applicants respectfully traverse. The Applicants believe claim 9 was to be interpreted broadly as a generic claim, which included one or more mutations of acetolactate synthase as subspecies within the generic claim. In light of the above, the Applicants wanted the additional new dependent claims 10-12 to fully clarify the claimed scope of the invention.

Support for claims 10-12 is within the present specification located at page 7, second to last paragraph, as previously indicated in the Amendment in Reply to Restriction Requirement (dated December 12, 2006).

During the Examiner interview dated August 29, 2007 the Examiner indicated that he based his decision to withdraw claims 10-12 on a different interpretation (i.e., claim 9 had one mutation and claims 10-12 were additional mutations of acetolactate synthase that were outside the scope of the invention of claim 9). We respectfully disagree with the Examiner's interpretation and ask the Examiner reconsider the claims in light of the Applicants' interpretation.

Applicants respectfully request rejoinder of claims 10-12 with claims 9 and 13 and request examination on the merits for claims 9-13.

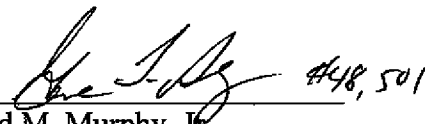
CONCLUSION

If the Examiner has any questions or comments, the Examiner is respectfully requested to contact Paul D. Pyla, Reg. No. 59,228 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: **OCT 12 2007**

Respectfully submitted,

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